IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.16802 OF 2002

Between:

N.V.Bhaskar Reddy.

.... PETITIONER

AND

The Prohibition and Excise Inspector,
Penugonda, Ananthapur District,
And others.

....RESPONDENTS

THE HON'BLE SRI JUSTICE
C.Y.SOMAYAJULU

WRIT PETITION NO.16802 OF 2002

O R D E R

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The petitioner, an arrack contractor, fell in arrears of rentals and issue price of more than Rs.3 lakhs for the year 1989-1990. As he did not pay the amount, respondents, by invoking the provisions of the Revenue Recovery Act, sought to collect the arrears with interest, which came to more than Rs.10 lakhs. When the petitioner made a representation to the Government, he was informed that as per the Excise Policy, if he were to pay the principal amount of Rs.3 lakhs and odd on or before 31.08.2002, interest accrued would be waived, and the principal amount would be received in full satisfaction of the amount due from him. As the petitioner did not pay the said amount, when the respondents issued notice under the Revenue Recovery At to recover the amount due from him, petitioner filed this petition questioning the right of respondents to recover the amount from him contending that the arrears due by him are barred by time.

2. The contention of the learned counsel for the petitioner is that inasmuch as time barred arrears cannot be recovered under the Revenue Recovery Act in view of the ratio in ***STATE OF KERALA V/s. V.R.KALLIYANIKUTTY***[1]***,*** the proceedings initiated against the petitioner are liable to be quashed.

3. Learned Assistant Government Pleader relying on ***SYNDICATE BANK, BRANCH AT HANAMKONDA V/s. EXCISE SUPERINTENDENT, EXCISE DEPARTMENT, WARANGAL, WARANGAL DISTRICT***[2] contended that the petitioner is not entitled to any relief.

4. I am unable to agree with the contention of the learned counsel for the petitioner that the claim for arrears for the year 1989-1990 was barred by time by the date of impugned notice issued in the year 2002, because as per Article 112 of the Limitation Act, the period of limitation for recovery of amounts due to the Government is thirty years from the date of accrual of the cause of action. So, even if the cause of action for recovery of the amount for the year 1989-90 accrued in the year 1989 i.e. at the commencement of the excise year 1989-1990, the Government had 30 years from 1989 to recover that amount. The notice was issued in the year 2002, which is well within thirty years from 1989, is very much in time, and so, the contention of the petitioners that the claim again is barred by time, cannot be accepted.

5. The learned counsel for the petitioner contended that inasmuch as the principal amount is only Rs.3 lakhs and odd, but the interest accrued thereon is more than Rs.7 lakhs, respondents may be directed to waive the interest and charge only a reasonable interest. I see no ground to grant that relief to the petitioner, because though he was given that option of paying the principal amount only by the respondents way back in 2002, he failed to utilize that opportunity, and came to Court only after proceedings for recovery were initiated and obtained interim stay, which was subsequently made absolute subject to some conditions.

6. So, the writ petition is dismissed with costs. Advocate fee is fixed at Rs.1,000/-.

JUSTICE C.Y.SOMAYAJULU

14th SEPTEMBER, 2007

PGS

THE HONOURABLE SRI JUSTICE
C.Y.SOMAYAJULU

W.P.NO.16802 OF 2002

14th SEPTEMBER, 2007

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[1] AIR 1999 SC 1305

[2] 2002 (4) ALD 93